

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:

I.T. BAINES III,

Complainant,

and

GENERAL MOTORS CORPORATION.

Respondent.

CHARGE NO(S): 2004CF3512

EEOC NO(S): N/A

ALS NO(S): 06-026

NOTICE

You are hereby notified that the Illinois Human Rights Commission has not received timely exceptions to the Recommended Order and Decision in the above named case. Accordingly, pursuant to Section 8A-103(A) and/or 8B-103(A) of the Illinois Human Rights Act and Section 5300.910 of the Commission's Procedural Rules, that Recommended Order and Decision has now become the Order and Decision of the Commission.

STATE OF ILLINOIS

HUMAN RIGHTS COMMISSION

Entered this 9th day of April 2010

N. KEITH CHAMBERS
EXECUTIVE DIRECTOR

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RECOMMENDED ORDER AND DECISION

On December 20, 2006, Complainant, I. T. Baines III, filed a complaint on his own behalf against Respondent, General Motors Corporation. That complaint alleged that Respondent discriminated against Complainant on the basis of his race when it suspended him. The complaint further alleged that Respondent unlawfully retaliated against Complainant.

This matter now comes on to be heard on Respondent's Motion to Dismiss. The Illinois Department of Human Rights (IDHR) filed a written response to that motion. Although Complainant was given an opportunity to file a written response of his own, no such response has been filed and the time for filing has elapsed. The matter is now ready for decision.

The Illinois Department of Human Rights is an additional statutory agency that has issued state actions in this matter. Therefore, the IDHR is an additional party of record.

FINDINGS OF FACT

The following facts were drawn from the record file in this matter.

1. Complainant, I. T. Baines III, filed his initial charge of discrimination with the IDHR on May 27, 2004.
2. Complainant and Respondent, General Motors Corporation, signed two agreed extensions of time, one for 120 days and one for 90 days, to allow the IDHR to conduct its

investigation of Complainant's charge.

3. The IDHR did not complete its investigation before the expiration of the time allotted for that investigation.

4. On January 3, 2006, the IDHR sent a letter to Complainant. That letter explained that the investigation period had expired on December 24, 2005 and that Complainant had until January 23, 2006 to file a complaint on his own behalf with the Illinois Human Rights Commission.

5. Complainant filed his complaint with the Human Rights Commission on December 20, 2006.

CONCLUSIONS OF LAW

1. A complainant has 30 days after the expiration of the IDHR's investigation period to file a complaint on his own behalf with the Illinois Human Rights Commission.

2. If no complaint is filed with the Commission within that 30-day period, the IDHR dismisses the underlying charge of discrimination with prejudice.

3. Once the IDHR dismisses a charge of discrimination, the complainant's proper remedy is to file a timely Request for Review.

4. The complaint in this case is untimely and must be dismissed with prejudice.

DISCUSSION

Complainant, I. T. Baines III, filed his initial charge of discrimination with the IDHR on May 27, 2004. Complainant and Respondent, General Motors Corporation, signed two agreed extensions of time, one for 120 days and one for 90 days, to allow the IDHR to conduct its investigation of Complainant's charge. Despite those extensions, The IDHR did not complete its investigation before the expiration of the time allotted for that investigation.

On January 3, 2006, the IDHR sent a letter to Complainant. That letter explained that the investigation period had expired on December 24, 2005 and that Complainant had until

January 23, 2006 to file a complaint on his own behalf with the Illinois Human Rights Commission. Complainant, however, did not file his complaint with the Human Rights Commission until December 20, 2006.

Under section 7A-102(G)(2) of the Act, Complainant had 30 days after the expiration of the IDHR's investigation period to file a complaint with the Human Rights Commission. The IDHR notified Complainant by mail that he had the opportunity to file such a complaint. Despite that notice, though, Complainant did not file his complaint in this forum until several months after the expiration of that 30-day window.

If a complaint is not filed until after the end of the 30-day window, the Human Rights Commission has no authority to consider that complaint and the complaint must be dismissed with prejudice. See ***Gibson and Noon***, IHRC, 05-131, July 13, 2005. Accordingly, Respondent's Motion to Dismiss must be granted.

RECOMMENDATION

Based upon the foregoing, the Human Rights Commission has no authority to consider the complaint in this matter because it was not filed in a timely manner. Accordingly, it is recommended that Respondent's Motion to Dismiss be granted and the complaint in this matter be dismissed in its entirety, with prejudice.

HUMAN RIGHTS COMMISSION

BY: _____
MICHAEL J. EVANS
CHIEF ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

ENTERED: July 15, 2009